

accruing after the date of such initial determination * * *.”

(b) Except as provided in §725.415 of this subpart, after the deputy commissioner has determined that a claimant is eligible for benefits, on the basis of all evidence submitted by a claimant and operator, and has determined that a hearing will be necessary to resolve the claim, the deputy commissioner shall in writing so inform the parties and direct the operator to begin the payment of benefits to the claimant in accordance with §725.522. The date on which this writing is sent to the parties shall be considered the date of initial determination of the claim.

(c) If a notified operator refuses to commence payment of a claim within 30 days from the date on which an initial determination is made under this section, benefits shall be paid by the fund to the claimant in accordance with §725.522, and the operator shall be liable to the fund, if such operator is determined liable for the claim, for all benefits paid by the fund on behalf of such operator, and, in addition, such penalties and interest as are appropriate.

[43 FR 36772, Aug. 18, 1978, as amended at 48 FR 24292, May 31, 1983]

§ 725.421 Referral of a claim to the Office of Administrative Law Judges.

(a) In any claim for which a formal hearing is requested or ordered, and with respect to which the deputy commissioner has completed development and adjudication without having resolved all contested issues in the claim, the deputy commissioner shall refer the claim to the Office of Administrative Law Judges for a hearing. If the deputy commissioner with jurisdiction over the claim is located at any place outside Washington, DC, such deputy commissioner shall forward a claim with respect to which a hearing is required by this part to the DCMWC in Washington, DC, which shall refer the claim to the Office of Administrative Law Judges for appropriate proceedings.

(b) In any case referred to the Office of Administrative Law Judges under this section, the deputy commissioner shall transmit to that office the following documents, which shall be placed in

the record at the hearing subject to the objection of any party:

(1) Copies of the claim form or forms; (2) any statement, document, or pleading submitted by a party to the claim; (3) a copy of the notification to an operator of its possible liability for the claim; (4) all evidence submitted to the deputy commissioner under this part; (5) any written stipulation of law or fact or stipulation of contested and uncontested issues entered into by the parties; (6) any pertinent forms submitted to the deputy commissioner; (7) the statement by the deputy commissioner of contested and uncontested issues in the claim; and (8) the deputy commissioner's initial determination of eligibility or other documents necessary to establish the right of the fund to reimbursement, if appropriate. Copies of the transmittal notice shall also be sent to all parties to the claim.

(c) A party may at any time request and obtain from the deputy commissioner copies of documents transmitted to the Office of Administrative Law Judges under paragraph (b) of this section. If the party has previously been provided with such documents, additional copies may be sent to the party upon the payment of a copying fee to be determined by the deputy commissioner.

[43 FR 36772, Aug. 18, 1978, as amended at 48 FR 24292, May 31, 1983]

§ 725.422 Legal assistance.

The Secretary or his or her designee may, upon request, provide a claimant with legal assistance in processing a claim under the Act. Such assistance may be made available to a claimant in the discretion of the Solicitor of Labor or his or her designee at any time prior to or during the time in which the claim is being adjudicated and shall be furnished without charge to the claimant. Representation of a claimant in adjudicatory proceedings shall not be provided by the Department of Labor unless it is determined by the Solicitor of Labor that such representation is in the best interests of the black lung benefits program. In no event shall representation be provided to a claimant in a claim with respect to which the claimant's interests are adverse to